

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LESTER NAZARENO FERRER
4243 Fair Ranch Rd
Union City, CA 94587

Registered Nurse License No. 684500

Respondent.

CASE No. 2011-952

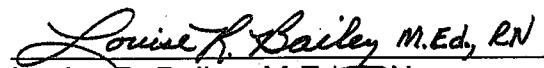
OAH No. 2011090882

NOTICE OF DECISION AND ORDER

No action having been taken on the attached Proposed Decision, pursuant to Government Code section 11517(c)(2) the attached decision is hereby deemed adopted by operation of law on June 1, 2012.

Pursuant to Government Code section 11519, this Decision shall become effective on June 29, 2012.

Date: June 1, 2012.


Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
SUCCESSOR TO THE BOARD OF REGISTERED NURSING
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LESTER NAZARENO FERRER,

Registered Nurse License No. rn684500

Respondent

Case No. 2011-952

OAH No. 2011090882

PROPOSED DECISION

This decision is the result of a stipulated settlement that was placed on the record before Cheryl R. Tompkin, Administrative Law Judge, Office of Administrative Hearings, State of California, on February 3, 2012, in Oakland, California.

Char Sachson, Deputy Attorney General, appeared on behalf of the Department of Consumer Affairs, successor to the Board of Registered Nursing (complainant), Deputy Attorney General Jonathan D. Cooper, respondent Lester Nazareno Ferrer and respondent's counsel, Deborah L. Phillips, Attorney at Law.

The matter was submitted for decision on February 3, 2012.

FACTUAL FINDINGS

1. On May 31, 2011, the Executive Officer of the Board of Registered Nursing issued an Accusation against respondent.
2. On January 27, 2012, complainant and applicant entered into a Stipulated Settlement and Disciplinary Order (Stipulated Settlement), a copy of which is attached hereto as Attachment A and made a part hereof.
3. At the hearing, complainant, through counsel, represented that the parties wish to settle all the charges and allegations set forth in the Accusation in accordance with the terms and conditions of the Stipulated Settlement. Applicant, through his signature on the Stipulated Settlement, has represented that he: (a) has read and understands the terms and conditions of the Stipulated Settlement; (b) has knowingly and voluntarily entered into the

Stipulated Settlement; and (c) is knowingly and voluntarily waiving his right to a hearing in this matter.

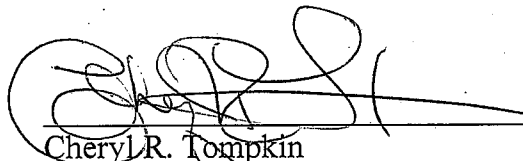
LEGAL CONCLUSIONS

Pursuant to the representations of the parties, good cause exists to adopt the Stipulated Settlement as the decision and order in this matter.

ORDER

The Stipulated Settlement and Disciplinary Order executed by the parties and attached hereto as Attachment A is the decision and order in this matter.

DATED: February 15, 2012


Cheryl R. Tompkin
Administrative Law Judge
Office of Administrative Hearings

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BOARD OF
REGISTERED NURSING
SACRAMENTO

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
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455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **THE SUCCESSOR TO THE BOARD OF REGISTERED NURSING**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LESTER NAZARENO FERRER**
14 **4243 Fair Ranch Road**
15 **Union City, California 94587**

16 **Registered Nurse License No. 684500**

17 **Respondent.**

Case No. 2011-952

OAH No. 2011090882

18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant), brought this action solely in her capacity
24 as Executive Officer of the Board of Registered Nursing (Board), Department of Consumer
25 Affairs. This action is maintained pursuant to a Delegation of Authority from the Board and its
26 Executive Officer to the Department of Consumer Affairs, effective December 31, 2011. All
27 references to the Board shall include the Board or its successor. The Board is represented in this
28 matter by Kamala D. Harris, Attorney General of the State of California, by Jonathan D. Cooper,
Deputy Attorney General.

2. Respondent Lester Nazareno Ferrer (Respondent) is represented in this proceeding by
attorney Deborah L. Phillips, whose address is: 5424-10 Sunol Boulevard, Suite 254,
Pleasanton, CA 94566-7705.

3. On or about July 25, 2006, the Board of Registered Nursing issued Registered Nurse License No. 684500 to Lester Nazareno Ferrer (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-952 and will expire on May 31, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2011-952 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 31, 2011. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 2011-952 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Pursuant to Business and Professions Code section 102.3, the Board delegated its duties to the Department of Consumer Affairs by way of an interagency agreement, effective December 31, 2011, until legislation re-establishing the Board takes effect. A copy of the interagency agreement is attached as Exhibit B and incorporated by reference.

7. Respondent acknowledges and agrees that the Board or its successor has continuing jurisdiction to discipline his license.

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-952. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California

Administrative Procedure Act and other applicable laws.

10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

11. Respondent understands and agrees that the charges and allegations in Accusation No. 2011-952, if proven at a hearing, constitute cause for imposing discipline upon his Registered Nurse License.

12. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent hereby gives up his right to contest those charges.

13. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

14. This stipulation shall be subject to approval by the Board or its successor pursuant to the Board's delegation of authority as set forth in the attached interagency agreement.

Respondent understands and agrees that counsel for Complainant and Board staff may communicate directly with the Board or its successor regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel.

By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation before the Board or its successor act on it or it becomes effective by operation of law pursuant to the Administrative Procedure Act (Gov. Code, § 11340 et seq.). If the Stipulated Settlement and Disciplinary Order is rejected by the Board or its successor as the final resolution of the pending accusation, it shall be of no force or effect, except for this paragraph it shall be inadmissible in any legal action between the parties, and the Board or its successor shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board or its successor may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 684500, issued to Respondent Lester Nazareno Ferrer (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with

1 the conditions of the Probation Program established by the Board and cooperate with
2 representatives of the Board in its monitoring and investigation of the Respondent's compliance
3 with the Board's Probation Program. Respondent shall inform the Board in writing within no
4 more than 15 days of any address change and shall at all times maintain an active, current license
5 status with the Board, including during any period of suspension.

6 Upon successful completion of probation, Respondent's license shall be fully restored.

7 3. **Report in Person.** Respondent, during the period of probation, shall appear in
8 person at interviews/meetings as directed by the Board or its designated representatives.

9 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
10 practice as a registered nurse outside of California shall not apply toward a reduction of this
11 probation time period. Respondent's probation is tolled, if and when he resides outside of
12 California. Respondent must provide written notice to the Board within 15 days of any change of
13 residency or practice outside the state, and within 30 days prior to re-establishing residency or
14 returning to practice in this state.

15 Respondent shall provide a list of all states and territories where he has ever been licensed
16 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
17 information regarding the status of each license and any changes in such license status during the
18 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
19 license during the term of probation.

20 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
21 or cause to be submitted such written reports/declarations and verification of actions under
22 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
23 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
24 Respondent shall immediately execute all release of information forms as may be required by the
25 Board or its representatives.

26 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
27 state and territory in which he has a registered nurse license.

28 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall

1 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
2 6 consecutive months or as determined by the Board.

3 For purposes of compliance with the section, "engage in the practice of registered nursing"
4 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
5 non-direct patient care position that requires licensure as a registered nurse.

6 The Board may require that advanced practice nurses engage in advanced practice nursing
7 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

8 If Respondent has not complied with this condition during the probationary term, and
9 Respondent has presented sufficient documentation of his good faith efforts to comply with this
10 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
11 extension of Respondent's probation period up to one year without further hearing in order to
12 comply with this condition. During the one year extension, all original conditions of probation
13 shall apply.

14 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
15 prior approval from the Board before commencing or continuing any employment, paid or
16 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
17 performance evaluations and other employment related reports as a registered nurse upon request
18 of the Board.

19 Respondent shall provide a copy of this Decision to his employer and immediate
20 supervisors prior to commencement of any nursing or other health care related employment.

21 In addition to the above, Respondent shall notify the Board in writing within seventy-two
22 (72) hours after he obtains any nursing or other health care related employment. Respondent
23 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
24 regardless of cause, from any nursing, or other health care related employment with a full
25 explanation of the circumstances surrounding the termination or separation.

26 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
27 Respondent's level of supervision and/or collaboration before commencing or continuing any
28 employment as a registered nurse, or education and training that includes patient care.

1 Respondent shall practice only under the direct supervision of a registered nurse in good
2 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
3 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
4 approved.

5 Respondent's level of supervision and/or collaboration may include, but is not limited to the
6 following:

7 (a) Maximum - The individual providing supervision and/or collaboration is present in
8 the patient care area or in any other work setting at all times.

9 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
10 care unit or in any other work setting at least half the hours Respondent works.

11 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
12 person communication with Respondent at least twice during each shift worked.

13 (d) Home Health Care - If Respondent is approved to work in the home health care
14 setting, the individual providing supervision and/or collaboration shall have person-to-person
15 communication with Respondent as required by the Board each work day. Respondent shall
16 maintain telephone or other telecommunication contact with the individual providing supervision
17 and/or collaboration as required by the Board during each work day. The individual providing
18 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
19 patients' homes visited by Respondent with or without Respondent present.

20 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
21 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
22 or for an in-house nursing pool.

23 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
24 registered nursing supervision and other protections for home visits have been approved by the
25 Board. Respondent shall not work in any other registered nursing occupation where home visits
26 are required.

27 Respondent shall not work in any health care setting as a supervisor of registered nurses.
28 The Board may additionally restrict Respondent from supervising licensed vocational nurses

1 and/or unlicensed assistive personnel on a case-by-case basis.

2 Respondent shall not work as a faculty member in an approved school of nursing or as an
3 instructor in a Board approved continuing education program.

4 Respondent shall work only on a regularly assigned, identified and predetermined
5 worksite(s) and shall not work in a float capacity.

6 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
7 request documentation to determine whether there should be restrictions on the hours of work.

8 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
9 successfully complete a course(s) relevant to the practice of registered nursing no later than six
10 months prior to the end of his probationary term.

11 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
12 Respondent shall submit to the Board the original transcripts or certificates of completion for the
13 above required course(s). The Board shall return the original documents to Respondent after
14 photocopying them for its records.

15 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
16 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
17 amount of \$4,752.00. Respondent shall be permitted to pay these costs in a payment plan
18 approved by the Board, with payments to be completed no later than three months prior to the end
19 of the probation term.

20 If Respondent has not complied with this condition during the probationary term, and
21 Respondent has presented sufficient documentation of his good faith efforts to comply with this
22 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
23 extension of Respondent's probation period up to one year without further hearing in order to
24 comply with this condition. During the one year extension, all original conditions of probation
25 will apply.

26 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
27 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
28 and impose the stayed discipline (revocation/suspension) of Respondent's license.

1 If during the period of probation, an accusation or petition to revoke probation has been
2 filed against Respondent's license or the Attorney General's Office has been requested to prepare
3 an accusation or petition to revoke probation against Respondent's license, the probationary
4 period shall automatically be extended and shall not expire until the accusation or petition has
5 been acted upon by the Board.

6 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing
7 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
8 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
9 Respondent's request and to exercise its discretion whether to grant the request, or to take any
10 other action deemed appropriate and reasonable under the circumstances, without further hearing.
11 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
12 subject to the conditions of probation.

13 Surrender of Respondent's license shall be considered a disciplinary action and shall
14 become a part of Respondent's license history with the Board. A registered nurse whose license
15 has been surrendered may petition the Board for reinstatement no sooner than the following
16 minimum periods from the effective date of the disciplinary decision:

17 (1) Two years for reinstatement of a license that was surrendered for any reason other
18 than a mental or physical illness; or

19 (2) One year for a license surrendered for a mental or physical illness.

20 **ACCEPTANCE**


21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Deborah L. Phillips. I understand the stipulation and the effect it
23 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
24 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
25 Decision and Order of the Board or its successor.

26
27 DATED: 1/25/12

28 
LESTER NAZARENO FERRER
Respondent

1 I have read and fully discussed with Respondent Lester Nazareno Ferrer the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: Jan 26, 2012


Deborah L. Phillips
Attorney for Respondent

6 **ENDORSEMENT**

7 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
8 submitted for consideration by the Board or its successor.

9 Dated:

Respectfully submitted,

10 KAMALA D. HARRIS
11 Attorney General of California
12 FRANK H. PACOE
Supervising Deputy Attorney General

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14 JONATHAN D. COOPER
15 Deputy Attorney General
16 Attorneys for Complainant
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1 I have read and fully discussed with Respondent Lester Nazareno Ferrer the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: _____
5 Deborah L. Phillips
6 Attorney for Respondent

7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Board or its successor.

10 Dated: 1/27/12

Respectfully submitted,

11 KAMALA D. HARRIS
12 Attorney General of California
13 FRANK H. PACOE
14 Supervising Deputy Attorney General

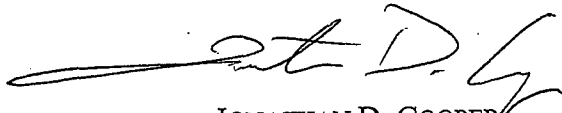
15 
16 JONATHAN D. COOPER
17 Deputy Attorney General
18 Attorneys for Complainant

Exhibit A

Accusation No. 2011-952

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2011-952

11 **LESTER NAZARENO FERRER**
12 **4243 Fair Ranch Road**
13 **Union City, California 94587**

A C C U S A T I O N

14 **Registered Nurse License No. RN684500**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about July 25, 2006, the Board of Registered Nursing issued Registered Nurse
22 License Number RN684500 to Lester Nazareno Ferrer (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

7. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

8. California Code of Regulations, title 16, section 1443, states:

As used in Section 2761 of the code, "incompetence" means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

///

1 COSTS

2 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 FACTUAL SUMMARY

7 10. On or about September 2, 2009, Respondent was working as a registered nurse at
8 Washington Hospital in Fremont, California. Respondent was responsible for providing nursing
9 care to patient D.D.¹ Respondent was responsible for administering a transfusion of blood to
10 patient D.D.

11 11. Before Respondent began the transfusion, patient D.D. and members of patient D.D.'s
12 family informed Respondent that patient D.D.'s blood type was type B, and not the type A blood
13 that Respondent was preparing to administer to patient D.D. Respondent did not make any effort
14 to re-test patient D.D.'s blood for type or cross-match. Respondent made no attempt to verify
15 patient D.D.'s blood type, or to advocate on patient D.D.'s behalf. Respondent stated to patient
16 D.D. and patient D.D.'s family members that the transfusion would proceed, and that if the blood
17 turned out to be the wrong type, patient D.D. would experience pain in his back. Respondent then
18 administered type A blood, which was the wrong type of blood, to patient D.D.

19 12. Approximately fifteen minutes after Respondent began the transfusion, patient D.D.
20 experienced pain in this back and hip. Respondent then discontinued the transfusion. The
21 transfusion of the incorrect blood placed patient D.D. at risk of kidney failure.

22 ///

23 FIRST CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 13. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
26 he acted unprofessionally, as set forth above in paragraphs 10-12..

27 _____
28 ¹ The name of patient D.D. is withheld to protect patient privacy.

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Exhibit B

**Interagency Agreement between the Department of Consumer Affairs
and the California Board of Registered Nursing**

STATE OF CALIFORNIA)
)
COUNTY OF SACRAMENTO)

SS:



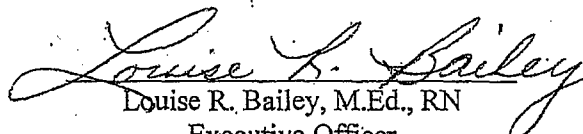
DECLARATION

I am a United States citizen and I am over the age of eighteen. **I HEREBY CERTIFY** that I, Louise R. Bailey, am the Executive Officer for the California State Board of Registered Nursing ("Board"), Department of Consumer Affairs, 1747 N. Market Blvd., Suite 150, Sacramento, CA, and am the official delegated Custodian of the Records for the Board of Registered Nursing. I am responsible for their maintenance pursuant to Chapter 6, Division 2 of the California Business & Professions Code and certify the contents of said records pursuant to Sections 162 and 163 of the Business and Professions Code.

I hereby state that:

Attached is a true certified copy of the Interagency Agreement between the Board of Registered Nursing and the Department of Consumer Affairs.

I declare under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge and belief. Given under my hand and the seal of the Board of Registered Nursing, Department of Consumer Affairs, at Sacramento, California, this 28th day of December 2011.


Louise R. Bailey, M.Ed., RN
Executive Officer

INTERAGENCY AGREEMENT

Between the Department of Consumer Affairs
&
California Board of Registered Nursing

WHEREAS, Business and Professions Code Sections 2701 and 2708, establishing the Board of Registered Nursing ("Board") and providing for an Executive Officer to perform the duties delegated by the Board will become ineffective and repealed effective January 1, 2012; and

WHEREAS, the Nursing Practice Act has not been repealed and will remain in full force and effect; and

WHEREAS, the Board is within the Department of Consumer Affairs ("Department"); and

WHEREAS, it is the mission of the Board and Department to provide as much consumer protection as possible; and

WHEREAS, the Board has, by vote at its meeting on November 16, 2011, delegated to the Department as of December 31, 2011, those duties, powers and responsibilities that the Board has previously delegated to the Board's Executive Officer as of December 31, 2011, and, further, approved entering into this agreement; and

WHEREAS, the Board and the Department wish to provide for the continued administration of those provisions of the Nursing Practice Act that have been delegated to the Board's Executive Officer in an uninterrupted and stable manner until legislation re-establishing the Board takes effect;

NOW THEREFORE, the parties to this Interagency Agreement (hereinafter "Agreement") agree as follows:

1. The Department accepts the delegation as approved by the Board and confirmed in this Agreement, and agrees to perform all such responsibilities in the best interests of protecting the public and consistently with the Nursing Practice Act.
2. The Board hereby authorizes and empowers the Department to the extent authorized by law, and subject to the review and approval of the State and Consumer Services Agency, to exercise those powers, duties and responsibilities that have been delegated to the Board's Executive Officer as of December 31, 2011, to administer the Nursing Practice Act.
3. The Board hereby authorizes the Department to utilize any previously appropriated funds of the Board to carry out the responsibilities in administering the Nursing Practice Act in conjunction with this Agreement; and those funds shall be used for the

purposes for which the Board of Registered Nursing Fund, Professions and Vocations Fund was established..

4. The Department shall adhere to all current Board policies while this Agreement is in effect; all regulations and policies that have been adopted by the Board as of December 31, 2011, shall remain in effect until the time that legislation re-establishing the Board takes effect.

5. This Agreement shall take effect on December 31, 2011, and remain in effect until the time that legislation re-establishing the Board takes effect.

6. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

IT IS SO AGREED:

Department of Consumer Affairs ("Department")

By Brian Stiger
Brian Stiger, Acting Director

12/14/11
Date

California Board of Registered Nursing

By Jeannine Graves
Jeannine Graves, President
Doug Hoffman, Vice President

12/14/11
Date

Approved:

By Anita M. Caballero
Anita M. Caballero, Secretary
State and Consumer Services Agency

12/14/11
Date